

Child Welfare Act 1947, Western Australia

1948 – 2006

URL: https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a123.html

Details

The Child Welfare Act 1947 was the principal legislation governing child welfare in Western Australia, regulating the treatment of children sent to WA as unaccompanied child migrants after 1947 as well as all others in out of home care in the State. The Act repealed the State Children Act 1907 (as amended to 1941) but essentially retained the scope of the earlier legislation. Its purpose was to 'consolidate and amend' the laws for 'the protection, control, maintenance and reformation of neglected and destitute children' and related matters. New provisions included enabling penalties against a child to be withheld if it could be shown that circumstances such as a child's upbringing or health had contributed to the offence (s.26). The Act was amended many times during the 1950s and 1960s but was not greatly changed until the Child Welfare Amendment Act (No 2) 1976 was implemented. The Child Welfare Act 1947 was eventually repealed by the Children and Community Services Act 2004 on 1 March 2006.

The *Child Welfare Act 1947* governed out of home care in Western Australia from January 1948. It repealed the *State Children Act 1907* and all its amendments, including the *State Children Act Amendment Act 1919*, the *State Children Act Amendment Act 1927* and the *Child Welfare Act Amendment Act 1941*. The purpose of the 1947 Act was not dissimilar from the legislation's origins in 1907: 'to consolidate and amend the law relating to the making of better provision for the protection, control, maintenance and reformation of neglected and destitute children, and for other purposes connected therewith.'

The Act:

- Granted the Secretary of the Department the care, management and control of wards and their property, and the supervision of 'all children nursed by foster-mothers' (s.10.1) and to place children brought into departmental care. The department was to follow Ministerial directions and regulations in the placement of children (s.10.2) and could not overrule a children's court recommendation for placement without Ministerial approval (s.10.2.e)
- Required the children's court to take the child's future welfare into account in determining where to place the child (s.25)
- Enabled an officer of the department to apprehend any child deemed 'neglected' or 'incorrigible' or 'uncontrollable' (s.29); and enabled the children's court to commit children who it found to be 'neglected' or 'destitute' to either the care of the department, to an institution, or release the child on probation (s.30)
- Allowed the children's court to 'have regard to the antecedents, character, age, health, or mental condition of the child convicted' and the 'nature of the offence or any special circumstances of the case' and refrain from imposing a penalty on the child (s.26)
- Generally required that children who were 'neglected' or 'destitute' should not be placed in an industrial school (s.41.2). Industrial schools were for children who were found guilty of an offence (s.41.1). However, the court might identify 'special circumstances' (s.41.2) that enabled it to send a 'neglected or destitute child' to an industrial school, or allow the Minister to approve the transfer of a child 'for misconduct' from another institution

to an industrial school.

- Enabled the police or any officer of the department to return a 'ward who absconds from any institution, from his foster-parent' or any service placement or apprenticeship to be apprehended and 'conveyed to such institution' of the Secretary's choice (s.46).
- Enabled the department to determine where to place children in its care. These children could be placed in an institution, boarded out, 'placed with some respectable person', apprenticed or placed at service with a 'suitable person'(ss.31, 41, 50-51)
- Required young people who were wards of the State to be released from departmental control when they reached 18 years of age. Young women could have their wardship extended to 21 years of age (s.49).

The 1947 Act continued the requirement for record-keeping from the *Child Welfare Act 1947* (s.11) for children who were wards of the State and (s.149) for all institutions and licensees; foster-mothers' record-keeping requirements (s.117) included not only children who were wards, but 'every other child received by her'. The *Child Welfare Act Amendment Act (No.2) 1976* (s.104) amended s.117 of the *Child Welfare Act 1947* to require not only a register of children to be kept, but a broader requirement for 'facilities and centres' to keep 'other particulars and records' as determined by the department from time to time. All these records were to be made available for inspection by departmental officers and information from them was to be sent to the department upon request.

Although the Act was amended many times during the 1950s and 1960s, it was not greatly changed until the *Child Welfare Amendment Act (No 2) 1976* was implemented with a number of modernisations.

The *Child Welfare Act 1947* was eventually repealed by the *Children and Community Services Act 2004*.

More info

Chronology

- State Children Act 1907, Western Australia (1907 - 1948)
 - **Child Welfare Act 1947, Western Australia (1948 – 2006)**
 - Children and Community Services Act 2004, Western Australia (2004 - current)

Related Entries

Related Events

- [Investigation into the Administration of the Child Welfare Department, State of Western Australia \(1953\)](#)
The Investigation into the Administration of the Child Welfare Department of Western Australia by RH Hicks made recommendations about the *Child Welfare Act 1947*.
Date: 1953 -

Related Organisations

- [Child Welfare Department, State of Western Australia \(22 December 1927 - 15 June 1972\)](#)
The Child Welfare Department administered the *Child Welfare Act 1947*.
- [Department for Community Welfare, State of Western Australia \(1972 - 1985\)](#)
- [Department for Family and Children's Services, State of Western Australia \(1 July 1995 - 1 July 2001\)](#)
- [Department for Community Development, State of Western Australia \(1 July 2001 - 30 June 2007\)](#)

Is amended by

- [Child Welfare Act Amendment Act 1952, Western Australia \(1952 - 2006\)](#)
- [Child Welfare Act Amendment Act 1958, Western Australia \(1958 - 2004\)](#)
- [Child Welfare Act Amendment Act 1962, Western Australia \(1962 - 2004\)](#)
- [Child Welfare Act Amendment Act \(No. 2\) 1962, Western Australia \(1962 - 2006\)](#)
- [Child Welfare Act Amendment Act 1965, Western Australia \(1966 - 2006\)](#)

- [Child Welfare Act Amendment Act 1967, Western Australia \(1967 - 2006\)](#)
- [Child Welfare Act Amendment Act 1969, Western Australia \(1970 - 2006\)](#)
- [Child Welfare Act Amendment Act 1970, Western Australia \(1970 - 2006\)](#)
- [Child Welfare Amendment Act \(No 2\) 1976, Western Australia \(1976 - 2006\)](#)
- [Acts Amendment \(Evidence of Children and Others\) Act 1992, Western Australia \(1992\)](#)

Related Legislation

- [Native Welfare Act 1954, Western Australia \(1955 - 1964\)](#)
The *Native Welfare Act 1954* made the Commissioner of Native Welfare the guardian of all Aboriginal children except those who had been made wards under the *Child Welfare Act 1947*.
- [Criminal Code Amendment Act 1965, Western Australia \(1965 - current\)](#)
The *Criminal Code Amendment Act 1965* updated the Criminal Code to be consistent with provisions in the *Child Welfare Act 1947*.
- [Disability Services Amendment Act 1999, Western Australia \(1999 - current\)](#)
The *Disability Services Amendment Act 1999* made special provision for children as defined by the *Child Welfare Act 1947* as being 'in need of care and protection'.

Resources

- Department for Community Development, State of Western Australia, [Submission No 55 to the Senate Inquiry into Children in Institutional Care](#), July 2003
- Buti, Tony, *After the Removal: A submission by the Aboriginal Legal Service of WA (Inc) to the National Inquiry into Separation of Aboriginal and Torres Strait Islander Children from their Families.*, 1996. Relevance: pp.448-450 highlights the detrimental impact of the *Child Welfare Act 1947* on Aboriginal children and their families
- Wells, Annette, [Juvenile Justice in Western Australia](#), Paper presented at the Children and Crime: Victims and Offenders Conference, 17 June 1999 - 18 June 1999

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